

ASSEMBLY BILL

No. 2301

Introduced by Assembly Member Logue

February 18, 2010

An act to amend Section 51182 of the Government Code and to amend Section 4291 of the Public Resources Code, relating to fire protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 2301, as introduced, Logue. Fire protection: defensible space.

Existing law requires that a person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material that is within a very high fire hazard severity zone, as designated by a local agency, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure. Existing law requires that a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material, within a state responsibility area, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 51182 of the Government Code is amended to read:

51182. (a) A person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by the local agency pursuant to Section 51179, shall at all times do all of the following:

(1) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line except as provided in paragraph (2). The amount of fuel modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Consistent with fuels management objectives, steps should be taken to minimize erosion.

(2) A greater distance than that required under paragraph (1) may be required by state law, local ordinance, rule, or regulation. Clearance beyond the property line may only be required if the state law, local ordinance, rule, or regulation includes findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Clearance on adjacent property shall only be conducted following written consent by the adjacent landowner.

(3) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under paragraph (1) if a fire expert, designated by the fire

1 chief or fire official from the authority having jurisdiction, provides
2 findings that the clearing is necessary to significantly reduce the
3 risk of transmission of flame or heat sufficient to ignite the
4 structure, and there is no other feasible mitigation measure possible
5 to reduce the risk of ignition or spread of wildfire to the structure.
6 The greater distance may not be beyond the property line unless
7 allowed by state law, local ordinance, rule, or regulation.

8 (4) Remove that portion of a tree that extends within 10 feet of
9 the outlet of a chimney or stovepipe.

10 (5) Maintain a tree, shrub, or other plant adjacent to or
11 overhanging a building free of dead or dying wood.

12 (6) Maintain the roof of a structure free of leaves, needles, or
13 other vegetative materials.

14 (7) Prior to constructing a new dwelling or structure that will
15 be occupied or rebuilding an occupied dwelling or occupied
16 structure damaged by a fire in that zone, the construction or
17 rebuilding of which requires a building permit, the owner shall
18 obtain a certification from the local building official that the
19 dwelling or structure, as proposed to be built, complies with all
20 applicable state and local building standards, including those
21 described in subdivision (b) of Section 51189, and shall provide
22 a copy of the certification, upon request, to the insurer providing
23 course of construction insurance coverage for the building or
24 structure. Upon completion of the construction or rebuilding, the
25 owner shall obtain from the local building official, a copy of the
26 final inspection report that demonstrates that the dwelling or
27 structure was constructed in compliance with all applicable state
28 and local building standards, including those described in
29 subdivision (b) of Section 51189, and shall provide a copy of the
30 report, upon request, to the property insurance carrier that insures
31 the dwelling or structure.

32 (b) A person is not required under this section to manage fuels
33 on land if that person does not have the legal right to manage fuels,
34 nor is a person required to enter upon or to alter property that is
35 owned by any other person without the consent of the owner of
36 the property.

37 (c) The Department of Forestry and Fire Protection shall
38 develop, periodically update, and post on its Internet Web site a
39 guidance document on fuels management pursuant to this chapter.
40 ~~Guidance~~ *The guidance document* shall include, but not be limited

1 to, regionally appropriate vegetation management suggestions that
2 preserve and restore native species, minimize erosion, minimize
3 water consumption, and permit trees near homes for shade,
4 aesthetics, and habitat; and suggestions to minimize or eliminate
5 the risk of flammability of nonvegetative sources of combustion
6 such as woodpiles, propane tanks, decks, and outdoor lawn
7 furniture.

8 SEC. 2. Section 4291 of the Public Resources Code is amended
9 to read:

10 4291. (a) A person who owns, leases, controls, operates, or
11 maintains a building or structure in, upon, or adjoining a
12 mountainous area, forest-covered lands, brush-covered lands,
13 grass-covered lands, or land that is covered with flammable
14 material, shall at all times do all of the following:

15 (1) Maintain defensible space of 100 feet from each side and
16 from the front and rear of the structure, but not beyond the property
17 line except as provided in paragraph (2). The amount of fuel
18 modification necessary shall take into account the flammability
19 of the structure as affected by building material, building standards,
20 location, and type of vegetation. Fuels shall be maintained in a
21 condition so that a wildfire burning under average weather
22 conditions would be unlikely to ignite the structure. This paragraph
23 does not apply to single specimens of trees or other vegetation that
24 are well-pruned and maintained so as to effectively manage fuels
25 and not form a means of rapidly transmitting fire from other nearby
26 vegetation to a structure or from a structure to other nearby
27 vegetation. The intensity of fuels management may vary within
28 the 100-foot perimeter of the structure, the most intense being
29 within the first 30 feet around the structure. Consistent with fuels
30 management objectives, steps should be taken to minimize erosion.
31 For the purposes of this paragraph, “fuel” means any combustible
32 material, including petroleum-based products and wildland fuels.

33 (2) A greater distance than that required under paragraph (1)
34 may be required by state law, local ordinance, rule, or regulation.
35 Clearance beyond the property line may only be required if the
36 state law, local ordinance, rule, or regulation includes findings that
37 the clearing is necessary to significantly reduce the risk of
38 transmission of flame or heat sufficient to ignite the structure, and
39 there is no other feasible mitigation measure possible to reduce
40 the risk of ignition or spread of wildfire to the structure. Clearance

1 on adjacent property shall only be conducted following written
2 consent by the adjacent landowner.

3 (3) An insurance company that insures an occupied dwelling
4 or occupied structure may require a greater distance than that
5 required under paragraph (1) if a fire expert, designated by the
6 director, provides findings that the clearing is necessary to
7 significantly reduce the risk of transmission of flame or heat
8 sufficient to ignite the structure, and there is no other feasible
9 mitigation measure possible to reduce the risk of ignition or spread
10 of wildfire to the structure. The greater distance may not be beyond
11 the property line unless allowed by state law, local ordinance, rule,
12 or regulation.

13 (4) Remove that portion of a tree that extends within 10 feet of
14 the outlet of a chimney or stovepipe.

15 (5) Maintain a tree, shrub, or other plant adjacent to or
16 overhanging a building free of dead or dying wood.

17 (6) Maintain the roof of a structure free of leaves, needles, or
18 other vegetative materials.

19 (7) Prior to constructing a new building or structure or rebuilding
20 a building or structure damaged by a fire in an area subject to this
21 section, the construction or rebuilding of which requires a building
22 permit, the owner shall obtain a certification from the local building
23 official that the dwelling or structure, as proposed to be built,
24 complies with all applicable state and local building standards,
25 including those described in subdivision (b) of Section 51189 of
26 the Government Code, and shall provide a copy of the certification,
27 upon request, to the insurer providing course of construction
28 insurance coverage for the building or structure. Upon completion
29 of the construction or rebuilding, the owner shall obtain from the
30 local building official, a copy of the final inspection report that
31 demonstrates that the dwelling or structure was constructed in
32 compliance with all applicable state and local building standards,
33 including those described in subdivision (b) of Section 51189 of
34 the Government Code, and shall provide a copy of the report, upon
35 request, to the property insurance carrier that insures the dwelling
36 or structure.

37 (b) A person is not required under this section to manage fuels
38 on land if that person does not have the legal right to manage fuels,
39 nor is a person required to enter upon or to alter property that is

1 owned by any other person without the consent of the owner of
2 the property.

3 (c) (1) Except as provided in Section 18930 of the Health and
4 Safety Code, the director may adopt regulations exempting a
5 structure with an exterior constructed entirely of nonflammable
6 materials, or, conditioned upon the contents and composition of
7 the structure, the director may vary the requirements respecting
8 the removing or clearing away of flammable vegetation or other
9 combustible growth with respect to the area surrounding those
10 structures.

11 (2) An exemption or variance under paragraph (1) shall not
12 apply unless and until the occupant of the structure, or if there is
13 not an occupant, the owner of the structure, files with the
14 department, in a form as the director shall prescribe, a written
15 consent to the inspection of the interior and contents of the structure
16 to ascertain whether this section and the regulations adopted under
17 this section are complied with at all times.

18 (d) The director may authorize the removal of vegetation that
19 is not consistent with the standards of this section. The director
20 may prescribe a procedure for the removal of that vegetation and
21 make the expense a lien upon the building, structure, or grounds,
22 in the same manner that is applicable to a legislative body under
23 Section 51186 of the Government Code.

24 (e) The Department of Forestry and Fire Protection shall
25 develop, periodically update, and post on its Internet Web site a
26 guidance document on fuels management pursuant to this chapter.
27 ~~Guidance~~ *The guidance document* shall include, but not be limited
28 to, regionally appropriate vegetation management suggestions that
29 preserve and restore native species, minimize erosion, minimize
30 water consumption, and permit trees near homes for shade,
31 aesthetics, and habitat; and suggestions to minimize or eliminate
32 the risk of flammability of nonvegetative sources of combustion
33 such as woodpiles, propane tanks, decks, and outdoor lawn
34 furniture.

35 (f) As used in this section, “person” means a private individual,
36 organization, partnership, limited liability company, or corporation.